

*Example 1. Terminal illness.* The decedent bequeaths \$1,000,000 to a trust under the terms of which the trustee is to pay \$103,000 per year to a charitable organization during the life of the decedent's child. Upon the death of the child, the remainder in the trust is to be distributed to the decedent's grandchild. The child, who is age 60, has been diagnosed with an incurable illness, and there is at least a 50 percent probability of the child dying within 1 year. Assuming the presumption provided for in paragraph (b)(3)(i) of this section does not apply, the standard life annuity factor for a person age 60 may not be used to determine the present value of the charitable organization's annuity interest because there is at least a 50 percent probability that the child, who is the measuring life, will die within 1 year. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the child's actual life expectancy.

*Example 2. Deaths resulting from common accidents, etc.* The decedent's will establishes a trust to pay income to the decedent's surviving spouse for life. The will provides that, upon the spouse's death or, if the spouse fails to survive the decedent, upon the decedent's death the trust property is to pass to the decedent's children. The decedent and the decedent's spouse die simultaneously in an accident under circumstances in which it was impossible to determine who survived the other. Even if the terms of the will and applicable state law presume that the decedent died first with the result that the property interest is considered to have passed in trust for the benefit of the spouse for life, after which the remainder is to be distributed to the decedent's children, the spouse's life income interest may not be valued by use of the mortality component described under section 7520. The result would be the same even if it was established that the spouse survived the decedent.

(5) *Additional limitations.* Section 7520 does not apply to the extent as may otherwise be provided by the Commissioner.

(c) *Effective date.* Section § 20.7520-3(a) is effective as of May 1, 1989. The provisions of paragraph (b) of this section are effective with respect to estates of decedents dying after December 13, 1995.

[T.D. 8540, 59 FR 30170, June 10, 1994, as amended by T.D. 8630, 60 FR 63916, Dec. 13, 1995]

#### § 20.7520-4 Transitional rules.

(a) *Reliance.* If the valuation date is after April 30, 1989, and before June 10, 1994, an executor can rely on Notice 89-

24, 1989-1 C.B. 660, or Notice 89-60, 1989-1 C.B. 700 (See § 601.601(d)(2)(ii)(b) of this chapter), in valuing the transferred interest.

(b) *Effective date.* This section is effective as of May 1, 1989.

#### § 20.7701-1 Tax return preparer.

(a) *In general.* For the definition of a tax return preparer, see § 301.7701-15 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78451, Dec. 22, 2008]

## PART 22—TEMPORARY ESTATE TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

AUTHORITY: 26 U.S.C. 7805.

### § 22.0 Certain elections under the Economic Recovery Tax Act of 1981.

(a) *Election of special rules for woodlands—(1) In general.* This paragraph applies to the election of special rules for woodlands under section 2032A(e)(13) of the Code, as added by section 421(h) of the Economic Recovery Tax Act of 1981. The executor shall make this election for an estate by attaching to the estate tax return a statement that—

(i) Contains the decedent's name and taxpayer identification number as they appear on the estate tax return,

(ii) Identifies the election as an election under section 2032A(e)(13) of the Code,

(iii) Specifies the property with respect to which the election is made, and

(iv) Provides all information necessary to show that the executor is entitled to make the election.

(2) *Additional information required.* If later regulations issued under section 2032A(e)(13) require the executor to furnish information in addition to that required under paragraph (a)(1) of this section and an office of the Internal Revenue Service requests the executor to furnish the additional information, the executor shall furnish the additional information in a statement filed

with that office of the Internal Revenue Service within 60 days after the request is made. The statement shall also contain the information required by paragraphs (a)(1) (i), (ii), and (iii) of this section. If the additional information is not provided within 60 days after the request is made, the election may, at the discretion of the Commissioner, be held invalid.

(b) *Election of special use valuation for qualified real property.* This paragraph applies to the election of special use valuation for qualified real property under section 2032A(d)(1) of the Code, as amended by section 421(j)(3) of the Economic Recovery Tax Act of 1981. This election shall be made in the manner prescribed in §20.2032A-8(a)(3), except that the election shall be valid even if the estate tax return is not timely filed.

(c) *Elections irrevocable.* Elections to which this section applies may not be revoked.

(d) *Effective date.* The elections described in this section are available with respect to the estates of decedents dying after 1981.

[T.D. 7793, 46 FR 54540, Nov. 3, 1981]

## PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

### GIFT TAX

Sec.

25.0-1 Introduction.

### DETERMINATION OF TAX LIABILITY

25.2207A-1 Right of recovery of gift taxes in the case of certain marital deduction property.

25.2207A-2 Effective date.

25.2501-1 Imposition of tax.

25.2502-1 Rate of tax.

25.2502-2 Donor primarily liable for tax.

25.2503-1 General definitions of "taxable gifts" and of "total amount of gifts."

25.2503-2 Exclusions from gifts.

25.2503-3 Future interests in property.

25.2503-4 Transfer for the benefit of a minor.

25.2503-6 Exclusion for certain qualified transfer for tuition or medical expenses.

25.2504-1 Taxable gifts for preceding calendar periods.

25.2504-2 Determination of gifts for preceding calendar periods.

### TRANSFERS

25.2511-1 Transfers in general.

25.2511-2 Cessation of donor's dominion and control.

25.2511-3 Transfers by nonresidents not citizens.

25.2512-0 Table of contents.

25.2512-1 Valuation of property; in general.

25.2512-2 Stocks and bonds.

25.2512-3 Valuation of interest in businesses.

25.2512-4 Valuation of notes.

25.2512-5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

25.2512-6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

25.2512-7 Effect of excise tax.

25.2512-8 Transfers for insufficient consideration.

25.2513-1 Gifts by husband or wife to third party considered as made one-half by each.

25.2513-2 Manner and time of signifying consent.

25.2513-3 Revocation of consent.

25.2513-4 Joint and several liability for tax.

25.2514-1 Transfers under power of appointment.

25.2514-2 Powers of appointment created on or before October 21, 1942.

25.2514-3 Powers of appointment created after October 21, 1942.

25.2515-1 Tenancies by the entirety; in general.

25.2515-2 Tenancies by the entirety; transfers treated as gifts; manner of election and valuation.

25.2515-3 Termination of tenancy by the entirety; cases in which entire value of gift is determined under section 2515(b).

25.2515-4 Termination of tenancy by entirety; cases in which none, or a portion only, of value of gift is determined under section 2515(b).

25.2516-1 Certain property settlements.

25.2516-2 Transfers in settlement of support obligations.

25.2518-1 Qualified disclaimers of property; in general.

25.2518-2 Requirements for a qualified disclaimer.

25.2518-3 Disclaimer of less than an entire interest.

### ACTUARIAL TABLES APPLICABLE BEFORE MAY 1, 1999

25.2512-5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 1999.

### DEDUCTIONS

25.2519-1 Dispositions of certain life estates.

25.2519-2 Effective date.